

Office of the Secretary of Defense

§ 277.4

U.S.C. 3401 et. seq., that the applicable provisions of that statute have been complied with as to the [Customer's authorization, administrative subpoena or summons, search warrant, judicial subpoena, formal written request, emergency access, as applicable] presented on [date], for the following financial records of [customer's name]:

[Describe the specific records]

Pursuant to section 3417(c) of the Right to Financial Privacy Act of 1978, good faith reliance upon this certificate relieves your institution and its employees and agents of any possible liability to the customer in connection with the disclosure of these financial records.

[Official Signature Block]

APPENDIX N TO PART 275—OBTAINING ACCESS TO FINANCIAL RECORDS OVERSEAS

A. The provisions of 12 U.S.C. Chapter 35 do not govern obtaining access to financial records maintained by military banking contractors overseas or other financial institutions in offices located on DoD installations outside the United States, the District of Columbia, Guam, American Samoa, Puerto Rico, or the Virgin Islands.

B. Access to financial records held by such contractors or institutions is preferably obtained by customer authorization. However, in those cases where it would not be appropriate to obtain this authorization or where such authorization is refused and the financial institution is not otherwise willing to provide access to its records:

1. A law enforcement activity may seek access by the use of a search authorization issued pursuant to established Component procedures; Rule 315, Military Rules of Evidence (Part III, Manual for Courts-Martial); and Article 46 of the Uniform Code of Military Justice.

2. An intelligence organization may seek access pursuant to Procedure 7 of DoD 5240.1-R.

3. Information obtained under this appendix shall be properly identified as financial information and transferred only where an official need-to-know exists. Failure to identify or limit access in accordance with this paragraph does not render the information inadmissible in courts-martial or other proceedings.

4. Access to financial records maintained by all other financial institutions overseas by law enforcement activities shall be in accordance with the local foreign statutes or procedures governing such access.

PART 277—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT

Sec.

277.1 Purpose.

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APPENDIX TO PART 277—PROGRAM FRAUD CIVIL REMEDIES

AUTHORITY: 31 U.S.C. 3807.

SOURCE: 53 FR 39262, Oct. 6, 1988, unless otherwise noted.

§ 277.1 Purpose.

This part establishes uniform policies, assigns responsibilities, and prescribes procedures for implementation of Pub. L. 99-509.

§ 277.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD); the Military Departments; the Office of the Inspector General, Department of Defense (OIG, DoD); the Defense Agencies; and the DoD Field Activities (hereafter referred to collectively as "DoD Components").

§ 277.3 Policy.

It is DoD policy to redress fraud in DoD programs and operations through the nonexclusive use of Pub. L. 99-509. All DoD Components shall comply with the requirements of this part in using this new remedy. Changes or modifications to this part by implementing organizations are prohibited. Implementing regulations are authorized only to the extent necessary to effectively carry out the requirements of this part.

§ 277.4 Responsibilities.

(a) The *Inspector General, Department of Defense* (IG, DoD), shall establish procedures for carrying out the duties and responsibilities of the "investigating official" as outlined in the appendix of this part.

(b) The *General Counsel, Department of Defense* (GC, DoD), shall:

- (1) Establish procedures for carrying out the duties and responsibilities of the authority head, Department of Defense, which have been delegated to the

GC, DoD, as set forth in appendix of this part.

(2) Establish procedures for carrying out the duties and responsibilities for appointment and support of presiding officers, as set forth in appendix of this part; and

(3) Review and approve the regulations and instructions required by this section to be submitted for approval by the GC, DoD.

(c) The *Secretaries of the Military Departments* shall:

(1) Establish procedures for carrying out the duties and responsibilities of the “authority head” and of the “reviewing officials” for their respective Departments, and for obtaining and supporting presiding officers from other Agencies as specified in Office of Personnel Management (OPM) regulations; (see appendix of this part).

(2) Make all regulations or instructions promulgated subject to the approval of the GC, DoD; and

(3) Delegate duties as appropriate.

(d) The *General Counsel of the National Security Agency* (GC, NSA) and the *General Counsel of the Defense Logistics Agency* (GC, DLA) shall be responsible for establishing procedures for carrying out the duties and responsibilities of the reviewing officials that have been delegated to them, as stated in appendix of this part. All Regulations or Instructions promulgated pursuant to this part shall be submitted to the GC, DoD.

APPENDIX TO PART 277—PROGRAM FRAUD CIVIL REMEDIES

A. Scope and Purpose

1. The Department of Defense has the authority to impose civil penalties and assessments against persons who make, submit or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents.

2. This appendix:

a. Establishes administrative policies and procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents;

b. Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

3. The uniform policies and procedures established by this enclosure are binding on the authorities and authority heads in the Department of Defense and Military Departments. Additional administrative regulations necessary to carry out the requirements of the PFCRA and this part may be written by the authority heads. Any such regulations shall be consistent with the provisions of this appendix.

B. Definitions

1. Adequate Evidence

Information sufficient to support the reasonable belief that a particular act or omission has occurred.

2. Authority

a. The Department of Defense, which includes OSD, Organization of the Joint Chiefs of Staff (OJCS), Unified and Specified Commands, Defense Agencies, and DoD Field Activities.

b. The Department of the Army.

c. The Department of the Navy.

d. The Department of the Air Force.

3. Authority Head

a. For the Department of Defense, the Deputy Secretary of the Department of Defense or an official or employee of the Department of Defense or the Military Departments designated in writing by the Deputy Secretary of Defense.

b. For the respective Military Departments, the Secretary of the Military Department or an official or employee of the Military Department designated in regulations promulgated by the Secretary to act on behalf of the Secretary.

4. Benefit

In the context of statements, anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling status, or loan guarantee.

5. Claim

Any request, demand, or submission made as follows:

a. To the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

b. To a recipient of property, services, or money from the authority or to a party to a contract with the authority:

(1) For property or services if the United States:

(a) Provided such property or services;

(b) Provided any portion of the funds for the purchase of such property or services; or

(c) Will reimburse such recipient or party for the purchase of such property or services; or